IN THE COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE JURISDICTION

WRIT PETITION NO.3170 OF 2006

Khokar Rafiq Haji Peer Mohammed ....Petitioners
vs.
The Slum Rehabilitation Authority
and anr. ...Respondents

Mr.Shashipal Shankar for the petitioner.
Mr. K.R.Belosay, Government Pleader/Respondent Nos.1 and 3/State.
Mr.G.D.Utangale i/by.Utangale & Co.
for respondent no.2.

CORAM: S.C. DHARMADHIKARI, J.

16th January, 2007.

P.C :-

1. Heard Mr.Shankar appearing for the petitioner and Mr.Utangale appearing for respondent no.2. The respondent nos.1 and 3 are served.

2. The petitioner is aggrieved by an order passed by

the Slum Rehabilitation Authority in an appeal under Section 25 of the Slum Rehabilitation Act.

3. The appellate authority as held that the petitioner at the hearing before him, produced certain documents but they do not prove the existence of the structure and the occupation of the petitioner herein prior to the requisite datum line i.e. 1.1.1995. The learned counsel appearing for the petitioner, invited my attention to the order as also the averments in the petition. According to him, the annexures to the petition namely the Ration Card and the Electricity Bill coupled with Electoral Roll, would demonstrate that the structure was in existence and the petitioner was an occupant thereof.

4. I am unable to accept these submissions. This is not a court of further appeal. It is not possible to reappraise and reappreciate the materials which are placed before the Authority during the course of the appeal. Further, from the perusal of the documents annexed to the petition, I find that there is a serious dispute about the identity of the petitioner

with that of the occupant named therein. Mr.Shankar, would like me to believe that the petitioner is also known as Khokar Rafiq Haji Peer Mohammed Qureshi. However, if the first annexure to the writ petition is perused, the name there is of one Mohammed Rafiq Haji Peer Mohammed Qureshi whereas the copy of the electricity bill shows the name of Mohammed Rafiq Qureshi. Further, somewhere in the documents, the premises are described as Gheewala Chawl, Chunnabhatti whereas in certain other places, it is described as Shastri Nagar. It is in these circumstances, that the notice issued by the Deputy Collector, (Encroachment) invoking his powers under Section 50(3) of the Maharashtra Land Revenue Code and the order passed in pursuance thereof cannot be faulted. Even the driving license extract produced, shows Mohammed Rafiq as the name. It is in these circumstances, I am of the opinion, that the conclusion drawn by the appellate Authority that the petitioner could not produce any proof of the existence of the structure prior to 1.1.1995 is not liable for being interfered with under the extraordinary so also the equitable and discretionary

jurisdiction of this court under Article 226 of the Constitution of India.

5. It is in the above circumstances, that I am unable to accept the contentions of the learned counsel appearing for the petitioner, that a fresh opportunity be given to the petitioner to substantiate his claim. Petition is summarily dismissed.

sd/-

(S.C.DHARMADHIKARI, J)